



# Legislative Research Council

# MINUTES

## Agricultural Land Assessment Implementation and Oversight Advisory Task Force

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**Senator Larry Rhoden, Chair**  
**Representative Justin Cronin, Vice Chair**

**Third Meeting**  
**2013 Interim**  
**October 29, 2013**

**Room 413**  
**State Capitol**  
**Pierre, South Dakota**

### **Tuesday, October 29, 2013**

**Senator Larry Rhoden** called to order the third 2013 interim meeting of the Legislative Research Council Agricultural Land Assessment Implementation and Oversight Advisory Task Force at 10:30 a.m. (CT), October 29, 2013, in Room 413 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Larry Rhoden, Chair, Jason Frerichs (via telephone), Al Novstrup (via telephone), and Billie Sutton; Representatives Mark Mickelson, and Jim Peterson; Kirk Chaffee, Paul Dennert, Curt Everson, Tom Hansen, and Lyle Perman. Excused: Representatives Julie Bartling and Justin Cronin; Mr. Walt Bones.

Staff members present included Fred Baatz, Principal Research Analyst; and Cindy Tryon, Legislative Secretary.

*(Note: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all reference documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council. This meeting was web cast live. The archived web cast is available at the LRC web site at <http://legis.state.sd.us> under "Interim Information – Current Interim – Minutes and Agendas.")*

### **Approval of Minutes**

**REPRESENTATIVE MICKELSON MOVED, SECONDED BY MR. HANSEN TO APPROVE THE MINUTES OF THE JULY 25, 2013 MEETING. The motion prevailed unanimously on a voice vote.**

### **Opening Remarks**

**Senator Larry Rhoden**, Chair, pointed out that this is the last meeting of the 2013 interim and any action the task force wishes to see proceed will need to be taken today.

**Representative Jim Peterson** distributed a document showing the property tax assessments for the Milbank school district for years 2009 – 2012 (**Document #1**).

### **Response to Task Force Requests**

**Mr. Michael Houdyshell**, Director, Division of Property and Special Taxes, Department of Revenue, distributed a memo from Deanna M. Peterson, Soil Scientist, Natural Resources Conservation Service (NRCS), explaining a soil survey and how it is implemented (**Document #2**).

Mr. Houdyshell distributed data regarding farm size and land in farms from 1983-2012, that was prepared by the National Agricultural Statistics Service (NASS) (**Document #3**).

**Ms. Colleen Skinner**, Property Tax Program Manager, Department of Revenue, presented a document explaining how level of assessment is determined on agricultural land (**Document #4**). Ms. Skinner explained that the Department of Revenue is charged with looking at county assessments on both ag and non-ag land. She said that any adjustments have to be reviewed on an annual basis. The document she distributed included the administrative rules and statutes on which this process is based.

In response to a question from **Representative Mark Mickelson**, Ms. Skinner explained that the marshland adjustment adjusts the value down (.1 in most counties).

Ms. Skinner presented a chart showing the total statewide valuation increase by class of property from 2012 to 2013 (**Document #5**).

### **Draft Legislation**

**Mr. Fred Baatz**, Principal Research Analyst, LRC, presented several pieces of draft legislation for the committee's consideration.

Draft #1 provides for the same schedule for phasing in the increased assessed property valuations for property and the tax revenue controls on the capital outlay and pensions fund imposed by school districts. The legislation also removes certain obsolete provisions.

Draft #2 amends SDCL 13-13-72.1 which sets the policy for adjusting the general fund levies for school districts. This piece of legislation would relink agricultural property and the other two classifications for the purpose of setting the general fund levies.

Draft #3 establishes a program that is referred to as roll back or green acres provisions.

Draft #4 revises the rate of which the annual earning capacity of ag land may be capitalized for the purpose of assessing agricultural property.

Draft #5 changes the olympic average from 8 years to 5 years for assessing agricultural property.

Draft #6 revises certain limitations concerning the application of the agricultural income value which is used to establish the assessed value of cropland and noncropland. It would move the deadline for counties being at 100% of its ag productivity value up to 2018.

Draft #7 changes the title of this task force and expands its mission.

Draft #8 allows the classification of certain grassland to be changed to noncropland if the owner makes that request.

Draft #9 assesses agricultural land based on its actual use.

Draft #10 was requested by Pennington County through Representative Verchio. This legislation revises the criteria for classifying property as agricultural land.

Draft #11 establishes a minimum school district general fund levy for agricultural property.

## Public Testimony

**Mr. Robert Heidgerken**, Meade County Commissioner and Meade County rancher, talked to the task force about the farm and ranch situation in Meade County. Mr. Heidgerken said that some farmers and ranchers were hit hard by the October blizzard, some have been hit hard by the drought, and some have had fire damage. These disasters resulted in cattle losses and reduced number of cattle, yet they are taxed based on cash rent which does not reflect reduced production capacity. He said that 14.1% of the money earned from the sale of a calf goes to pay property taxes. Mr. Heidgerken said that there should be some type of abatement available for disasters. He added that there may be a better way to fund schools than by taxing agricultural land.

**Mr. David Owen**, Executive Director, SD Chamber of Commerce and Industry, said that his organization plans to take part in the conversation regarding property taxes and the formulas used to assess those taxes. He said that it is important to continue the search for the best way to distribute the property tax load amongst all taxpayers. He added that he would like to see the task force expand their focus in order to get more business people involved in the process.

**Mr. Larry Wagner**, rancher, Chamberlain, said that he would like to see agricultural land assessed based on actual use. He said that there is a tremendous amount of land conversion occurring but the assessments do not change. If actual use was used in assessing land, it would be possible to levy taxes based on actual income producing capacity.

**Representative James Schaefer**, Kennebec, distributed a press release that was issued by the US Department of Agriculture on August 2, 2013, titled "South Dakota Farm Real Estate Value and Cropland Rent Higher" (**Document #6**).

**Ms. Angela Ehlers**, SD Association of Conservation Districts, said that her organization supports actual use when assessing agricultural land. She said that she would not support draft legislation #5 as it would create volatility to the database. She said that draft #7 may have some merit, but they are most interested in draft #10.

**Ms. Jodie Anderson**, SD Cattleman's Association, said that they support the actual use legislation being considered today.

**Mr. Rick Vallery**, Pierre, said that he opposes draft legislation #4, 5, 6 and 7. He said that agricultural land owners are paying their fair share and willingly do so because they believe in the process and, therefore, these drafts are not necessary.

Senator Rhoden distributed a memo from **Ms. Teddi Mueller**, SD Corn Growers Association, opposing draft legislation #8 and 9 (**Document #7**). **Mr. Matt McCaulley**, SD Corn Growers Association, spoke to that memo saying that drafts 8 and 9 address management decisions and farmers and ranchers should not be taxed based on management decisions.

**Ms. Brenda Foreman**, SD Association of Cooperatives, said that draft #4 would cause a lot of issues. She said that draft #5 would create a great deal of volatility and that concerns the Association. And she said that there is a set formula in place now for assessing agricultural land and changing it through draft #6 would be detrimental.

### **Action on Draft Legislation**

Senator Rhoden explained that it takes a majority of members present to vote aye on a draft bill in order for it to move forward. He explained that any legislative member voting for the draft bill will be listed as a sponsor of the bill. As Chair, Senator Rhoden will assign the prime sponsors to each bill, but he asked that any legislative task force member wishing to be considered for prime sponsor contact him.

*Draft #1 – An Act to revise certain provisions concerning the assessment and taxation of agricultural property.*

**MR. CHAFFEE MOVED, SECONDED BY REPRESENTATIVE MICKELSON, TO MOVE FORWARD WITH DRAFT BILL #1. The motion prevailed on a roll call vote with 10 voting AYE, 1 voting NAY, 3 EXCUSED. Those voting AYE: Mickelson, Peterson, Frerichs, Sutton, Chaffee, Dennert, Everson, Hansen, Perman, Rhoden. Those voting NAY: Novstrup. Those EXCUSED: Bartling, Bones, Cronin.**

*Drafts #2 – An Act to revise certain provisions concerning the adjustments to the general fund levies of school districts. #11 – An Act to establish a minimum school district general fund levy for agricultural property.*

**REPRESENTATIVE PETERSON MOVED, SECONDED BY MR. PERMAN, TO TABLE DRAFT BILLS #2 AND #11. The motion prevailed on a roll call vote with 10 voting AYE, 1 voting NAY, 3 EXCUSED. Those voting AYE: Peterson, Frerichs, Novstrup, Sutton, Chaffee, Dennert, Everson, Hansen, Perman, Rhoden. Those voting NAY: Mickelson. Those EXCUSED: Bartling, Bones, Cronin.**

*Draft #3 – An Act to require payment of certain property taxes if agricultural land is changed to another classification of property.*

No action was taken on this draft legislation.

*Draft #4 – An Act to revise the rate of which the annual earning capacity of agricultural land may be capitalized for the purpose of assessing the property.*

**SENATOR NOVSTRUP MOVED TO MOVE THIS DRAFT LEGISLATION FORWARD. Motion died for lack of a second.**

*Draft #5 – An Act to revise certain provisions concerning the determination of the agricultural income value for assessing agricultural land.*

**SENATOR NOVSTRUP MOVED TO MOVE THIS DRAFT LEGISLATION FORWARD. Motion died for lack of a second.**

*Draft #6 – An Act to revise certain limitations concerning the application of the agricultural income value which is used to establish the assessed value of cropland and noncropland.*

**SENATOR NOVSTRUP MOVED TO MOVE THIS DRAFT LEGISLATION FORWARD.  
Motion died for lack of a second.**

*Draft #7 – An Act to revise the title of the task force responsible for implementing and overseeing the assessment of agricultural land and to assign the task force certain other oversight responsibilities.*

**SENATOR NOVSTRUP MOVED TO MOVE THIS DRAFT LEGISLATION FORWARD.  
Motion died for lack of a second.**

*Draft #8 – An Act to provide for the assessment of certain agricultural land as noncropland.*

**MR. PERMAN MOVED, SECONDED BY MR. DENNERT, TO MOVE FORWARD WITH THIS  
PIECE OF DRAFT LEGISLATION.** The motion prevailed on a roll call vote with 7 voting  
AYE, 4 voting NAY, 3 EXCUSED. Those voting AYE: Peterson, Frerichs, Sutton, Dennert,  
Everson, Perman, Rhoden. Those voting NAY: Mickelson, Novstrup, Chaffee, Hansen.  
Those EXCUSED: Bartling, Bones, Cronin.

**REPRESENTATIVE PETERSON MOVED, SECONDED BY SENATOR SUTTON, TO  
RECONSIDER THE VOTE ON DRAFT #8.** The motion prevailed on a voice vote.

**REPRESENTATIVE PETERSON MOVED, SECONDED BY MR. DENNERT, TO TABLE  
DRAFT BILL #8.** Motion prevailed on a roll call vote with 11 voting AYE, 3 EXCUSED.  
Those voting AYE: Mickelson, Peterson, Frerichs, Novstrup, Sutton, Chaffee, Dennert,  
Everson, Hansen, Perman, Rhoden. Those EXCUSED: Bartling, Bones, Cronin.

*Draft #9 – An Act to assess agricultural land based on its actual use.*

**MR. PERMAN MOVED, SECONDED BY MR. DENNERT, TO MOVED FORWARD WITH  
THIS DRAFT BILL #9.** The motion prevailed on a roll call vote with 9 voting AYE, 2 voting  
NAY, 3 EXCUSED. Those voting AYE: Peterson, Frerichs, Sutton, Chaffee, Dennert,  
Everson, Hansen, Perman, Rhoden. Those voting NAY: Mickelson, Novstrup. Those  
EXCUSED: Bartling, Bones, Cronin.

### **Committee Discussion**

Mr. Dennert asked if the west river ranchers who were hit by the October blizzard could receive an abatement like the east river farmers did when their lands were flooded.

Senator Rhoden said that the October blizzard created unimaginable losses and that there has been much discussion about how best to offer relief to those land owners. Senator Rhoden distributed a copy of SDCL 10-18-2 which is the law regarding tax abatements (Document #8).

Representative Peterson asked if there is an alternative to make up for the funding schools would lose due to such an abatement. Senator Rhoden said that if there was an abatement, the schools may have a loss of funding in the short term.

## **Adjournment**

**REPRESENTATIVE PETERSON MOVED, SECONDED BY SENATOR SUTTON, TO ADJOURN. The motion prevailed unanimously on a voice vote.**

The meeting adjourned at 3:15 p.m.



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